

28442. Misbranding of canned cherries. U. S. v. 17½ Cases of Canned Cherries. Consent decree entered. Product ordered released under bond for relabeling. (F. & D. No. 40951. Sample No. 50881-C.)

This product was substandard because the cherries were packed in water, and it was not labeled to indicate that it was substandard.

On November 29, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17½ cases of canned cherries at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about July 12 and October 2, 1937, from Ogden, Utah, by John Scowcroft & Sons Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kitchen King Brand Pitted Red Cherries * * * Packed by John Scowcroft & Sons Co. Ogden, Utah, U. S. A."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the cherries were packed in water and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 27, 1937, John Scowcroft & Sons Co., Twin Falls, Idaho, claimant, having consented to entry of a decree, judgment was entered ordering the product released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28443. Adulteration of rabbits. U. S. v. 2 Sacks of Rabbits. Consent decree of condemnation. Unfit portion of the product ordered destroyed and fit portion ordered segregated. (F. & D. No. 40953. Sample No. 60776-C.)

A portion of these rabbits were decomposed and filthy.

On November 29, 1937, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two sacks of rabbits at Denver, Colo., consigned by Charlie P. Senna, Yeso, N. Mex., alleging that the article had been shipped in interstate commerce on or about November 22, 1937, from Yeso, N. Mex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On December 4, 1937, Charlie P. Senna having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the fit portion of the product be segregated and sold and that the remainder be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28444. Misbranding of canned peas. U. S. v. 450 Cases of Peas. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41837. Sample No. 12000-D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 25, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 450 cases of canned peas at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about January 22, 1938, by Thomas Roberts & Co., of Philadelphia, Pa., from Ridgely, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Caroline Brand Early June Peas * * * Saulsbury Bros. Inc. Distributors Ridgely, * * * Md."

It was alleged to be misbranded in that it was substandard, since more than 25 percent of the peas were ruptured.

On March 23, 1938, Walter W. Thrasher, Willoughby J. Rothrock, and Linton A. Thrasher, trading as Thomas Roberts & Co., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*